

Message Text

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ACTION OPIC-06

INFO OCT-01 ARA-06 ISO-00 EB-07 IGA-02 L-03 CIAE-00 INR-07

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P 261940Z NOV 76

FM AMEMBASSY LIMA

TO SECSTATE WASHDC PRIORITY 2800

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E.O. 11652: N/A

TAGS: EINV, PE

SUBJECT: CELANESE CLAIM

REF: A. STATE 281461, B. STATE 286269

1. IT APPEARS TO US THAT THE ONE-FOURTH OF ONE PERCENT BANK COMMISSION IS LEGALLY VALID. THE TRANSITORY DISPOSITION OF DECREE LAW 18275 STATES AS FOLLOWS: QUOTE THE BANCO DE LA NACION IS AUTHORIZED TO MAKE CONTRACTS WITH COMMERCIAL BANKS, EXCHANGE HOUSES, AND TRAVEL AND TOURIST AGENCIES SO THAT THEY CAN MAKE PURCHASE AND SALE OF FOREIGN EXCHANGE ACCORDING TO THE CONDITIONS OF THE PRESENT DECREE LAW UP TO A PERIOD OF NINETY DAYS. END QUOTE. DECREE LAW 18275 BECAME LAW ON MAY 15, 1970. ON JUNE 10, 1970 A CONTRACT WAS SIGNED BETWEEN BANCO DE LA NACION AND THE FOLLOWING BANKS: BANCO DE CREDITO, BANCO POPULAR, BANCO INTERNACIONAL DE PERU, BANCO WIESE, BANCO CONTINENTAL, BANCO COMERCIAL, BANCO DE LIMA, BANCO DEL PROGRESO, FIRST NATIONAL CITY BANK, BANK OF AMERICA, BANCO DE LONDRES Y AMERICA DEL SUR, ROYAL BANK OF CANADA, AND BANK OF TOKYO. ARTICLE NINE OF THIS CONTRACT STATES: QUOTE THE COMMERCIAL BANKS SHALL CHARGE A COMMISSION FOR AUTHORIZED OPERATIONS OF ONE-FOURTH OF ONE PERCENT (MINIMUM 30 SOLES) IN ADDITION TO THE USUAL CHARGES FOR THIS TYPE OF OPERATION. UNQUOTE. IN ACTUAL PRACTICE, THE BANCO CONTINENTAL DOES NOT CHARGE THE COMMISSION ON PURCHASES

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OF FOREIGN EXCHANGE FOR EMBASSY PERSONNEL BUT BANCO DE

LA NACION DOES CHARGE TOURISTS THE COMMISSION ON ITS PURCHASES OF FOREIGN EXCHANGE.

2. WITH REFERENCE TO THE QUESTION IN REF B, THE TAX OF ONE PERCENT WAS REMOVED BY DECREE LAW. THE TAX DOES NOT NOW EXIST FOR DRAFT AND CERTIFICATE MARKET TRANSACTIONS. OUR LOCAL LAWYER ADVISES THAT THE ONE PERCENT TAX WAS REMOVED BY ARTICLE 50 OF DECREE LAW 19620, WHICH ENTERED INTO EFFECT ON JANUARY 1, 1973.

3. FINALLY, IT SHOULD BE POINTED OUT THAT ARTICLE 61 OF SUPREME DECREE NO. 287-68-HC (1) IMPOSES A FORTY PERCENT TAX ON THE DIVIDEND INCOME OF JURIDICAL PERSONS NOT DOMICILED IN PERU (E.G. CELANESE, U.S.A.), BUT ALLOWS A THIRTY PERCENT RATE UNDER CERTAIN PROVISIONS OF THIS ARTICLE. THIS TAX IS IN ADDITION TO THE PERUVIAN CORPORATE INCOME TAX WHICH CELANESE PERU ALSO HAS TO PAY. DOES OPIC HAVE INFORMATION AVAILABLE ON THIS OR ANY OTHER TAX LIABILITY OF CELANESE PERU? PLEASE ADVISE.
DEAN

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